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IN THE

Supreme Court of the United States

October Term, 1968

NO. 1049

WEATHERFORD OIL TOOL COMPANY, INC., ET AL, *Petitioners*

v.

UNITED STATES OF AMERICA, *Respondent*

Supplemental Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

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GEORGE H. JEWELL, JR.
ROBERT J. PIRO
BAKER, BOTTS, SHEPHERD & COATES
Counsel for Petitioners

Alpha Law Brief Co., M & M Bldg., Houston, Texas 77002

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The fact that the United States is proceeding against Petitioners' property and does not seek a personal judgment is totally irrelevant to the question of whether this action is one for taxes. *Phillips v. Comm.*, 283 U.S. 589, 51 S.Ct. 608, 75 L.Ed. 1289 (1930) at pg. 603; *Nader v. Comm.*, 323 F.2d 139 (7th Cir., 1963).

The United States must know that it has no lien on Petitioners' properties and that the taxpayers (the Halls) have no interest whatever in those properties which the United States may attach. (Petitioners' Brief, pages 5 and

6). Nevertheless, it has persisted at every level in its assertion that it has such a lien and that the taxpayers have an interest in Petitioners' properties which the United States may attach. It has never furnished any of the courts involved any explanation or citation in support of its assertions and it is these assertions which have confused the issues in this case from the very beginning. It's continued assertions that it has a lien on Petitioners' properties and that taxpayers have an interest in such properties are totally without basis.

It should be apparent to this Court that (1) if the United States has no lien and (2) if the taxpayers have no interest whatever in Petitioners' properties, and neither of these matters is subject to any doubt, this cannot be a mere ancillary effort to collect a judgment nor an attempt to recover properties in which the taxpayers have an interest. Rather it is an action to collect taxes out of properties in which taxpayers have utterly no interest owned by persons who are strangers to the tax liability.

While the United States asserts that there is no conflict among the circuits, we respectfully suggest that an objective comparison of decisions cited by Petitioners in their Brief inevitably leads to a contrary conclusion. The United States cites *United States v. Oscar Frommel & Bro.*, 50 F.2d 73 (C.A. 2 Manton, Jr.) cert. denied, 284 U.S. 647, in support of its position. The *Frommel* decision was written by Justice Manton but Justice Hand wrote what surely is a far more lucid dissenting opinion.

Lastly, the circuit court held that this case did not involve an attempt to collect a tax and thus was not subject to §6502 limitations. In their Brief, Petitioners point out that such a holding leaves this action without

the ambit of any Federal limitations statute. The United States, in its Brief in Opposition, inexplicably states that the suit is "like any other action to collect taxes for limitations purposes." But this statement is in direct conflict with the circuit court holding which classifies the action as one other than to collect taxes. Obviously, the suit may not on the one hand be classified as one other than to collect a tax and on the other hand as one subject to the limitations applicable to suits to collect taxes.

We respectfully suggest that this Court may not leave an action of this type without the ambit of any federal limitations provision without doing a grave injustice to these Petitioners and to those in a similar position who will follow.

Petitioners pray that this petition for writ of certiorari be granted.

Respectfully submitted,

GEORGE H. JEWELL, JR.
ROBERT J. PIRO
BAKER, BOTTS, SHEPHERD & COATES
1600 Esperson Building
Houston, Texas 77002
CA 3-4800
Counsel for Petitioners